

# **Exhibit X**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**STEPHANIE CAPSOLAS, HERNAN RICARDO  
ALVARADO, JEFFREY CUTAIAR, NICOLE  
MEDVITZ, PAUL TORO, DANIEL JANSON,  
ROGER CARO, CHRIS ELL, CHRIS FORBES,  
JESSE PATRICK, and DIANA DIETRICH, on behalf  
of themselves and other similarly situated,**

**Plaintiffs,**

**v.**

**PASTA RESOURCES INC., BABBO LLC d/b/a  
BABBO RISTORANTE ENOTECA, PANE SARDO  
LLC d/b/a OTTO ENOTECA PIZZERIA, EL MONO  
LLC d/b/a CASA MONO and BAR JAMON, LA  
LOGGIA LLC d/b/a TARRY LODGE, MARIO  
BATALI, and JOSEPH BASTIANICH,**

**Defendants.**

**DECLARATION OF  
HERNAN RICARDO  
ALVARADO**

I, Hernan Ricardo Alvarado, declare, upon personal knowledge and under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the following is true and correct:

1. I have worked for Babbo as a backwaiter/runner from approximately March 2005 through the present.
2. During my entire tenure at Babbo, I was paid hourly wages of less than the full minimum wage rate.

**NOTICE OF THE TIP CREDIT**

3. Throughout my employment, nobody at Babbo ever informed me about the federal law regarding the tip credit at any time during my employment. Nobody at Babbo ever told me that I would be paid less than the minimum wage because I would receive tips or that my tips would be used as a credit against the minimum wage that Babbo was required to pay me.

**TIP SHARING**

4. During my employment at Babbo, I was not allowed to retain all of the tips that I earned.

5. The restaurant kept a portion of the customer tips that I and other tipped food service workers earned. Specifically, each night the restaurant required all service employees to pool their tips.

6. After creating the tip-pool, the restaurant calculated 4.5% of the wine sales at the restaurant that night and took that percentage out of the tip-pool. The remainder was distributed between other employees at Babbo, including waiters, runners and backwaiters.

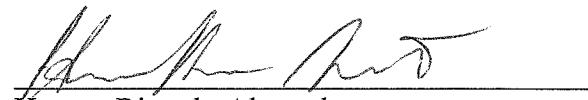
**MANAGEMENT RESPONSE TO THE LAWSUIT**

7. Shortly the lawsuit was filed, I was informed by my coworkers that Frank Langello, the executive chef, instructed them not to socialize with me.

8. Also, I was specifically excluded by Mr. Langello from taking part in the post-shift meal that the restaurant provided to employees. At the end of one shift several days after the lawsuit filed, Hector Suarez remained late at the restaurant in order to make sure that I did not partake in the employee meal. He stated that he was instructed by Mr. Langello to do so. After I complained about this to the general manager, Mr. Langello declared that there would no longer be a post-shift meal, and he told other employees that it was my fault that the meal was discontinued.

9. Since the filing of the lawsuit, Mr. Langello frequently follows me around closely at the restaurant staring at me in an intimidating manner. At times, he mutters under his breath but loudly enough for me to hear, “useless people.”

Dated: New York, New York  
September 30, 2010



Hernan Ricardo Alvarado